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International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2371/2014*, **

Communication submitted by:	Noureddine Maalem and Guldez Maalem (not represented by counsel)
Alleged victims:	The authors and their five children
State party:	Uzbekistan
Date of communication:	28 March 2014 (initial submission)
Document references:	Decision taken pursuant to rules 92 and 97 of the Committee's rules of procedure, transmitted to the State party on 31 March 2014 (not issued in document form)
Date of adoption of Views:	17 July 2018
Subject matter:	Expulsion from Uzbekistan to Algeria and separation from family
Procedural issue:	Level of substantiation of claims
Substantive issues:	Expulsion of non-citizen; fair trial; family life; rights of the child; torture and ill-treatment
Articles of the Covenant:	7, 14, 23 and 24
Article of the Optional Protocol:	2

1.1 The authors of the communication are Noureddine Maalem, a national of Algeria born in 1962, and his wife, Guldez Maalem, a national of Uzbekistan born in 1974. The communication is submitted on their own behalf and on behalf of their five children, all nationals of Uzbekistan, born in 1995, 1998, 2001, 2003 and 2006, respectively. Mr. Maalem is subject to deportation to Algeria, or possibly to Kazakhstan, following his criminal conviction and sentencing to five years' imprisonment, followed by an amnesty by court decision on

* Adopted by the Committee at its 123rd session (2–27 July 2018).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Ahmed Amin Fathalla, Olivier de Frouville, Christof Heyns, Bamariam Koita, Marcia V.J. Kran, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

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24 February 2014. The authors claim that the State party's decision to expel Mr. Maalem permanently from Uzbekistan constitutes a breach of his rights under articles 14, 23 and 24 of the Covenant and of Ms. Maalem's and their children's rights under articles 23 and 24 of the Covenant. Mr. Maalem also raises claims under article 7 of the Covenant. The Optional Protocol entered into force for Uzbekistan on 28 December 1995. The authors are not represented by counsel.

1.2 On 31 March 2014, pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party not to deport Mr. Maalem to Algeria while his case was under consideration by the Committee.

1.3 On 4 June 2017, the Committee, acting through its Special Rapporteur on new communications and interim measures, reminded the State party that the request for interim measures remained in effect.

Factual background

2.1 Mr. Maalem is a national of Algeria who arrived in Uzbekistan in 1983 as a student and has been living there ever since. He graduated from university, and in 1992 married a citizen of Uzbekistan, Ms. Maalem, with whom he has five children, all born in Tashkent and citizens of Uzbekistan. In 1993, he was issued a residence permit, which was renewed in 2002. However, he never obtained Uzbek citizenship. In early 2009, he was accused of committing a crime under article 135 of the Criminal Code (human trafficking). Mr. Maalem explains that he was unemployed at the material time. In order to earn some money, he was working as a taxi driver, using his own car to take passengers from Tashkent to the official border-crossing checkpoint with Kazakhstan, which is situated 10 km from Tashkent. The police suspected him of being a member of a criminal group trafficking low-skilled workers and sex workers to Kazakhstan. Mr. Maalem claims that he tried to prove his innocence, but was imprisoned and sentenced as the investigators and judges ignored his evidence and arguments. On 19 May 2009, the Yunusabad District Court of the City of Tashkent sentenced him to eight years' imprisonment for human trafficking. On 11 June 2010, the Tashkent City Court upheld the trial court verdict on cassation. Mr. Maalem's subsequent requests for supervisory review were rejected by the Tashkent City Court on 16 August and 12 October 2010. He claims that he was convicted solely on the basis of the testimony of the co-accused, who were influenced by the police to inculpate him. Later, in prison, they confessed to him that they had been told by the police to accuse him. His numerous subsequent requests to the national authorities (the President and Deputy President of the Supreme Court and the Prosecutor General) were rejected or ignored.

2.2 On 24 February 2014, after having served five years of his sentence, Mr. Maalem was granted amnesty by the Tashkent Region Bekabad City Court on the occasion of the twenty-first anniversary of the adoption of the Constitution. He was released, but had no identification documents as the police had taken his passport, without explanation. Moreover, while he was in prison, in 2011 his passport expired. On an unspecified date, he complained to the police authorities in charge of visa and residence matters, only to find that, together with the decision to grant amnesty, the court had also ordered him expelled from Uzbekistan. Mr. Maalem submits that he was not informed about his expulsion during the court hearing. According to government decree No. 409 of 1996 regulating matters relating to aliens residing in Uzbekistan, persons who commit a crime are expelled after serving their sentence. The decree refers to aliens in general terms, such as tourists or short-term visitors, without specific consideration of particular cases such as that of Mr. Maalem, who had been living in Uzbekistan for 31 years, was married to an Uzbek citizen and had five children, all Uzbek citizens.

2.3 On an unspecified date, Mr. Maalem appealed on cassation against the court decision, arguing that the circumstances of his case should be considered as exceptional and that the administrative regulations contradicted the constitutional provisions on supporting the family unit, the Family Code, the Covenant and the Convention on the Rights of the Child. However,

on 25 March 2014, the Tashkent Region Appeals Court upheld the Bekabad City Court decision of 24 February. The decision is in force, and Mr. Maalem could be deported from Uzbekistan, and thus permanently separated from his family, at any time. On 8 April and 21 May 2014, Mr. Maalem filed requests for supervisory review with the Supreme Court, which were rejected on 22 May. On 6 June, he filed a request for supervisory review with the President of the Supreme Court, which was rejected on 16 July.

2.4 Although satisfied with the first instance court's decision as regards the amnesty, the authors reiterate that, despite the State party's imperative to expel aliens who have committed a crime on its territory, the State party should have properly assessed the circumstances of their case and should have taken into consideration that Mr. Maalem is not a tourist, has strong ties with the State party, is married to an Uzbek citizen and has five children who are all Uzbek citizens. Moreover, he has always maintained his innocence, claimed he never committed a crime and was never part of a criminal group engaged in human trafficking. In his situation, expulsion effectively means permanent separation from his family. Furthermore, Ms. Maalem and their children, who are not aliens, will nevertheless be affected and will suffer the consequences of Mr. Maalem's expulsion, as they will be separated from their husband and father. The family has managed to maintain a close relationship through the years, including while Mr. Maalem was in prison. The children's psychological well-being, health, overall development and views will be negatively affected by forced separation from their father. According to the authors, in the present case, the State party's regulations on expelling aliens with criminal convictions are in conflict with the constitutional provisions on State support to the family and the Family Code, as well as with articles 23 and 24 of the Covenant. The authors request the Committee to ask the State party to treat their situation as exceptional and partly annul the decision of the court ordering Mr. Maalem's expulsion while upholding the decision in the part relating to the amnesty.

The complaint

3.1 The authors claim that the State party's decision to expel Mr. Maalem permanently from Uzbekistan constitutes a breach of their and their children's rights under articles 23 and 24 of the Convention. They emphasize that inadequate consideration has been given to their right to a family life with their children. In that connection, the authors also make reference to the Convention on the Rights of the Child. Mr. Maalem's expulsion to Algeria would therefore constitute a violation of his right to family life under article 23 of the Covenant. The authors submit that their children were born in Uzbekistan and are Uzbek citizens. They therefore maintain that the State party has violated their children's rights under articles 23 and 24 of the Covenant by ordering Mr. Maalem's expulsion, as they cannot be expected to follow him to Algeria. Therefore, the family will be effectively and permanently separated, and this will put the well-being of their children at risk.

3.2 Mr. Maalem also claims that his rights under article 14 of the Covenant have been violated as he was not informed that he was also ordered to be expelled from Uzbekistan when he was amnestied; his trial was held partly in Uzbek and partly in the Russian language, while he speaks only Arabic, French and Russian, and the court's decision was delivered only in the Uzbek language.

3.3 In addition, in a subsequent submission, Mr. Maalem claims that he was beaten by police officers and his cellmates in the pretrial detention facility, which raises issues under article 7 of the Covenant.

3.4 At a later stage, in a subsequent submission, Mr. Maalem adds other claims under article 14 concerning alleged breaches of fair trial guarantees by the trial court that sentenced him in 2009.

State party's observations on admissibility and the merits

4.1 In its observations dated 20 May 2014, the State party submitted that the communication was without merit. The State party observes that, on 24 February 2014, the Bekabad City Court granted amnesty to Mr. Maalem. It also ruled that he need not serve the remaining 1 year, 8 months and 18 days of his sentence and ordered his expulsion from the country. On 25 March 2014, the Tashkent Regional Court upheld this decision on cassation. Mr. Maalem disagrees with the courts' decisions concerning his expulsion, arguing that they have not considered his family circumstances, in particular, that he has lived in Uzbekistan since 1983, graduated from the university, is married and has five children born in the country.

4.2 The State party maintains that the Senate's decree on the amnesty on the occasion of the twenty-first anniversary of the adoption of the Constitution provides for amnesty to those sentenced to imprisonment (except those who have committed premeditated murders in aggravating circumstances) whose remaining sentences did not exceed two years and six months and whose sentences were in force on the date of the decree's publication. The decree also provides that, after the amnesty, these aliens are to be expelled from the country, in accordance with Cabinet of Ministers resolution No. 408 of 21 November 1996. The State party concludes that the authors' rights under articles 14, 23 and 24 of the Covenant have not been violated and does not consider that the court decisions should be quashed or amended.

Authors' comments on the State party's observations on admissibility and the merits

5.1 On 29 May 2014, Mr. Maalem submitted that both Ms. Maalem and his lawyer had appealed to the Tashkent Regional Court. The Court reviewed the case and did not find grounds for annulment of the trial court expulsion order. The authors were subsequently represented by another lawyer who advised them that an expulsion order could not be applied to Mr. Maalem, as he had been convicted in 2009, whereas the decree was modified in 2012. At the time of his conviction, the decree did not prescribe obligatory expulsion of an alien who had committed a crime. Therefore, the decree was wrongly applied retroactively to his case, as it made the sanction more severe.

5.2 On 27 March 2016, Mr. Maalem submitted that the rules on the stay of aliens on the territory of Uzbekistan, as adopted by the Cabinet of Ministers in its resolution No. 409, prescribed that aliens who had committed crimes "could be expelled" from Uzbekistan. However, this version was amended by Cabinet of Ministers resolution No. 235 of 7 August 2012, which prescribed mandatory expulsion and a subsequent re-entry ban for all convicted aliens, without exception. Until then, under the earlier version of the rules, those aliens who had lawful grounds to reside in Uzbekistan, such as residence and a residence permit, would not have been subjected to expulsion. Mr. Maalem reiterates that, in 2009, when he was sentenced, the applicable rules were not as severe as the version prescribing mandatory expulsion, which entered into force only on 7 August 2012; therefore, his expulsion is not compatible with articles 23 and 24 of the Covenant as well as with article 3 of the Convention on the Rights of the Child. Moreover, he again maintains his innocence and disagrees with the 2009 trial court verdict. He reports that, on the basis of the decision of the Civil Court of the City of Tashkent, his right to leave the country has been restricted. His residence permit in Uzbekistan has been extended until 2020 as a result of a complaint submitted by Ms. Maalem that, according to the law, while their children are minors and Mr. Maalem has not paid child support, he cannot leave the country without the agreement of his wife. In addition, Mr. Maalem reports that his criminal case has been reopened.

5.3 On 5 April and 4 May 2016, Mr. Maalem reiterated his earlier claims, challenging the legality of his conviction for human trafficking and the subsequent court order to expel him from Uzbekistan. He adds new claims, submitting that, during his pretrial detention, he was beaten by police officers and his cellmates and money was extorted from him. On an unspecified date, he complained to the Tashkent City Prosecutor's Office about this treatment. On 10 June 2010, the Deputy Prosecutor of the City of Tashkent informed him that the

documents of the internal investigation had been transmitted to the Yunusabad Prosecution Office for a pre-investigation check. On 14 July, the Yunusabad Prosecution Office refused to initiate criminal proceedings due to the lack of corpus delicti.

State party's additional observations

6.1 In a submission dated 3 February 2017, the State party reiterated its previous arguments and addressed Mr. Maalem's new allegations. The State party submits that his arguments regarding illegal detention, torture and ill-treatment during the period of detention in institutions UYA 64/21, UYA 64/IZ-1 and UYA 64/IZ-13 were thoroughly studied and have not been confirmed, in view of the absence of facts attesting to the commission of a crime. In the course of the investigation, Mr. Maalem's guilt was fully proven by witnesses' testimonies, face-to-face questioning of witnesses and other objective evidence. During the pretrial investigation, no violations of the legal rights and interests of the accused were established.

6.2 Based on the evidence collected in the criminal case, on 19 May 2009, Mr. Maalem was found guilty of committing a crime, stipulated by article 135 (3) (d) of the Criminal Code of Uzbekistan, and he was sentenced to imprisonment for eight years.

6.3 During his detention, no mental or physical pressure was exerted on Mr. Maalem. In the penitentiary institutions of the State party, the necessary measures are taken to prevent any actions aimed at infringing upon the legitimate rights of those detained and those sentenced to imprisonment. Particular attention is paid to human rights, including the prevention of torture and other inhuman treatment. In the event that physical force or other unauthorized treatment is revealed, the guilty persons are disciplined or criminally prosecuted. Following Mr. Maalem's statement that he was beaten at the UYA-64/IZ-1 institution, which is under the control of the Ministry of Internal Affairs, an official investigation was carried out and the Prosecutor's Office of the Yunusabad District of Tashkent carried out a pre-investigation check.

6.4 Mr. Maalem's cellmates did not confirm his beating and the extortion of money, claiming that he was not beaten and no money was extorted from him. The doctors of the institution, A.M. and V.S., explained that he repeatedly complained of back pains, that he had been treated for "back illness" before being taken into custody and that he received appropriate medical assistance in the institution. According to the conclusion of the forensic medical examination, no injuries were found on the body of Mr. Maalem. Evidence supporting the alleged beating has not been established. Based on the results of the investigation, on 10 July 2010, the Prosecutor's Office of the Yunusabad District of Tashkent refused to initiate criminal proceedings, on the basis of article 83 of the Criminal Procedural Code (absence of corpus delicti), and the Tashkent Prosecutor's Office upheld this decision. Mr. Maalem was treated twice in the hospital while in prison for his medical complaints (at the end of 2009 and of 2012) and his general health was satisfactory and stable.

Author's comments on the State party's additional observations

7. On 17 February 2017, Mr. Maalem reiterated that he disagreed with the trial court verdict against him and claimed that his guilt had not been proven and the accusations against him fabricated. He considers the courts' decisions unlawful and unfair and disagrees with the classification of his crime given by the court. He explains again that he was using his own car to work as a taxi driver and provides a detailed narrative of the events of his alleged crime in 2009. He reiterates his claim that he was beaten while in detention and that his first and second lawyers advised him not to complain. He challenges the outcome of the internal investigation. Mr. Maalem also reiterates his previous arguments with regard to his expulsion from the country.

Additional observations

From the State party

8.1 On 28 April and 10 October 2017, the State party again provided a detailed narrative of the facts of Mr. Maalem's crime, explaining that all procedural steps against him had been taken in the presence of his lawyer and that his guilt was fully proven by the testimony of the co-accused and of the victims who were trafficked, the records/protocols of face-to-face questioning of the co-accused, the questioning of the witnesses and other evidence. In the courtroom, he did not call additional witnesses, nor did he complain of ill-treatment in the course of the pretrial investigation. The shortcomings in the pretrial investigation raised by the author and his counsel in their cassation appeals were examined by the cassation court, which upheld the first instance verdict on 11 June 2010. The State party reiterates that Mr. Maalem was released on 25 February 2014 and that during his detention in the remand prison he was not subjected to any ill-treatment. He was medically examined upon his arrival in the remand prison (full medical examination) and his health was found to be satisfactory.

8.2 In addition, the State party clarifies that, in accordance with the decision of the Tashkent Mirzo-Ulugbek Civil Inter-district Court of 5 May 2014, following Ms. Maalem's claim concerning the payment of child support by Mr. Maalem, the execution of the expulsion decision has been temporarily suspended and his resident permit extended until 17 April 2020.

From the authors

9.1 On 17 August 2017, Mr. Maalem commented on the State party's additional observations. He reiterates his claims in relation to the criminal proceeding against him, both at the pretrial and at the trial phase. He adds new claims that neither the co-accused nor the witnesses – the women victims of trafficking –"said anything against him" in the courtroom; that the court only took into consideration their earlier testimony given during the pretrial investigation; and that the court denied his and his counsel's motions to hear three additional witnesses.

9.2 He maintains his claim that he was beaten in the remand prison by a police officer and by a cellmate. As regards the forensic medical examination, he rebuts the State party's argument, clarifying that the examination was conducted two years after the beatings had taken place and therefore no traces could have remained, except his headaches.

From the State party

9.3 On 10 October 2017, the State party repeated its previous submissions regarding the 2009 criminal trial, alleged ill-treatment and expulsion.

Issues and proceedings before the Committee

Consideration of admissibility

10.1 Before considering any claims contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol.

10.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

10.3 The Committee notes the authors' claim that they have exhausted all effective domestic remedies available to them. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

10.4 The Committee takes note of Mr. Maalem's allegations of ill-treatment by police officers and cellmates during the pretrial detention with the aim of extracting money and intimidating him. That Mr. Maalem raised this allegation before national authorities, notably with the Prosecutor's Office, is not refuted by the State party. In this regard, the Committee takes note of the State party's argument that an internal investigation took place and on that basis the Prosecutor's Office refused to initiate criminal proceedings for lack of corpus delicti. From the information before it, the Committee is not in a position to conclude that Mr. Maalem was subjected to treatment contrary to article 7 of the Covenant. In the absence of further information from the authors in this respect, the Committee concludes that the allegations under article 7 have not been sufficiently substantiated for purposes of admissibility and declares them inadmissible under article 2 of the Optional Protocol.

10.5 The Committee notes Mr. Maalem's claims under article 14 of the Covenant that fair trial guarantees were breached throughout the criminal proceedings, in particular that he disagrees with the sentence against him and with the court's assessment of the evidence; that his and his lawyer's motions to hear additional witnesses on his behalf were denied; that the court accepted testimonies of the co-accused and the women victims of trafficking given at the pretrial phase, some of which they retracted in the courtroom. The Committee further notes his claims that, during the court hearing of 24 February 2014 when he was granted amnesty, he was not informed about his expulsion from Uzbekistan; and that the hearing was held partly in Uzbek and partly in Russian and the court's decision was delivered only in Uzbek, whereas he speaks only Arabic, French, English and Russian. The Committee notes, however, that there is no record in the file that Mr. Maalem raised this claim before the domestic authorities at the material time. The Committee takes note of the State party's assertions that Mr. Maalem was represented throughout the proceedings by a lawyer of his own choosing and that all procedural steps against him were taken in the presence of his lawyer. Furthermore, his guilt was fully proven by the testimony of the co-accused, the trafficked victims, records and protocols of face-to-face questioning of the co-accused, questioning of witnesses and other evidence. The Committee also notes the State party's clarification that in the courtroom Mr. Maalem did not call additional witnesses, nor did he complain of ill-treatment in the course of the pretrial investigation. Based on the information before it, the Committee considers that the author did not sufficiently develop his claims regarding the right to a fair trial and declares these claims insufficiently substantiated and inadmissible under article 2 of the Optional Protocol.

10.6 The Committee considers that the authors have sufficiently substantiated their remaining claims, raising issues under articles 23 and 24 of the Covenant. It also considers that the authors' claims also raise issues under article 17 of the Covenant. The Committee therefore proceeds with its consideration of the merits.

Consideration of the merits

11.1 The Committee has considered the communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

11.2 With respect to the claim of a violation of article 23, the Committee observes that to separate Mr. Maalem from his children and the rest of his family in Uzbekistan may give rise to issues under article 17, read in conjunction with article 23 (1), of the Covenant. The Committee reiterates its jurisprudence according to which there may be cases in which a State party's refusal to allow one member of the family to remain in its territory would involve interference in that person's family life. However, the mere fact that one member of the family is entitled to remain in the territory of a State party does not necessarily mean that requiring other members of the family to leave involves such interference.[1]

[1] See *Byahuranga v. Denmark* (CCPR/C/82/D/1222/2003), para. 11.5; *Winata v. Australia* (CCPR/C/72/D/930/2000), para. 7.1; and *Madafferi v. Australia* (CCPR/C/81/D/1011/2001), para. 9.7.

11.3 In the present case, the Committee considers that the decision of the State party to expel the father of five children, some of them minors, coupled with a restriction on re-entry into the country, constitutes "interference" with the family, in particular in circumstances in which, as in the present case, substantial changes in family life would follow. In that regard, the Committee observes that, although Mr. Maalem's family life has been subjected to significant restrictions during his incarceration from 2009 to 2014, he has been able to preserve and maintain a close relationship with his family.

11.4 The Committee recalls that the notion of arbitrariness includes elements of inappropriateness, injustice, lack of predictability and due process of law,[2] as well as elements of reasonableness, necessity and proportionality.[3] The Committee also recalls that, in cases in which one part of a family must leave the territory of the State party while the other part would be entitled to remain, the relevant criteria for assessing whether the specific interference with family life can be objectively justified must be considered in the light, on the one hand, of the significance of the State party's reasons for the removal of the person concerned and, on the other hand, of the degree of hardship the family and its members would encounter as a consequence of such removal.[4]

11.5 In the present case, the Committee observes that Mr. Maalem's removal pursued a legitimate objective, which is the consequence of the enforcement of the State party's criminal law. In addition, the State party explained that the decision to expel Mr. Maalem was issued on 24 February 2014 and upheld on cassation on 25 March 2014. The Committee notes that subsequently, on 5 May 2014, the Tashkent Mirzo-Ulugbek Civil Inter-district Court temporarily suspended the execution of the expulsion decision as child support was due to be paid by Mr. Maalem to his minor children, and his residence permit was extended until 17 April 2020. However, the Committee also notes Mr. Maalem's argument that the State party applied retroactively to his case a more severe and restrictive version of the regulation providing for mandatory expulsion and a subsequent re-entry ban, which allows no exception, rather than an earlier version of the regulation under which convicted aliens who had lawful grounds to reside in the State party would not automatically be subjected to expulsion.

11.6 The Committee notes that the State party justifies Mr. Maalem's removal from the country by the fact that he was convicted of the offence of human trafficking and subsequently granted amnesty, which leads automatically, without exception, to the expulsion of aliens who have been lawfully residing in Uzbekistan. Furthermore, the State party is of the view that the expulsion decision is fully in line with domestic legislation and serves a legitimate State interest. However, it is to be noted that Mr. Maalem has served his sentence and that there is no evidence that he constitutes a security problem for the State party. The Committee takes note of the authors' argument that their children cannot be expected to follow their father to Algeria, as they are Uzbek nationals and have no ties with that country. The Committee also notes that if Mr. Maalem were to be deported to Algeria – a country that he left more than 30 years ago – the nature and quality of his family relationships could not be adequately maintained through regular visits, due to the re-entry restrictions imposed on him.

11.7 The Committee recalls the principle that, in all decisions affecting children, the child's best interests shall be the primary consideration. The Committee considers that the State party failed to give primary consideration to the best interests of the authors' children in the present case and that, as a result, its interference with the authors' family life and the ensuing insufficient protection afforded to the family generated excessive hardship for the authors and their children. The issuance of an expulsion order against Mr. Maalem presented the authors with the choice of leaving the State party as a family unit, and exposing their children to unforeseen challenges, or breaking up the family unit. Either alternative confronting the family

[2] See *Ilyasov v. Kazakhstan* (CCPR/C/111/D/2009/2010), para. 7.4.

[3] See general comment No. 35 (2014) on liberty and security of person, para. 12.

[4] See *Madafferi v. Australia*, para. 9.8; and *D.T. v. Canada* (CCPR/C/117/D/2081/2011), para. 7.6.

would not have been in the best interests of the children. It is undisputed that Mr. Maalem left Algeria when he was young, has resided for more than 30 years in Uzbekistan and has established connections with the State party. The State party has not adequately explained why its legitimate objective in upholding its criminal policy concerning aliens on its territory, notably applying retroactively a more restrictive version of the regulation providing for automatic expulsion, without exception, of aliens who have committed crimes and served their sentences should have outweighed the best interests of the authors' children. In the light of all the circumstances of the present case, the Committee considers that the expulsion order issued against Mr. Maalem constituted disproportionate interference with the family life of both authors and their children, which cannot be justified in the light of the reasons invoked by the State party to remove him to Algeria. The Committee concludes that Mr. Maalem's expulsion order resulted in arbitrary interference with the right to family life, in breach of article 17 (1), read alone and in conjunction with article 23 (1), of the Covenant, in respect of the authors and their children.

11.8 Concerning the claim under article 24, the Committee reiterates that the principle of the best interests of the child forms an integral part of every child's right to such measures of protection as required by his or her status as a minor, on the part of his or her family, society and the State, as required by article 24 (1) of the Covenant.[5] In the light of its conclusions under articles 17 and 23, the Committee considers that the expulsion order against Mr. Maalem has violated article 24 owing to a failure to provide his minor children with the necessary protection owed to them as children by the State party.

12. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that Mr. Maalem's expulsion to Algeria would violate the rights of the authors and their children under article 17, read alone and in conjunction with article 23(1), of the Covenant and under article 24 (1) of the Covenant, in relation to their minor children.

13. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide individuals whose Covenant rights have been violated with an effective remedy. Accordingly, the State party is obligated to, inter alia, take appropriate steps to proceed to a review of the decision to expel Mr. Maalem with a restriction on his re-entry, taking into account the State party's obligations under the Covenant. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future.

14. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views and to have them widely disseminated in the official language of the State party.

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[5] See *Bakhtiyari v. Australia* (CCPR/C/79/D/1069/2002), para. 9.7.